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ADOPTED

April 7, 2015 BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#21 OF APRIL 7, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

PATRICK OGAWA
ACTING EXECUTIVE OFFICER

Agenda No. 7
08/26/14

**Re: PROJECT NUMBER R2011-00833-(5)
CONDITIONAL USE PERMIT NUMBER 2011-00079-(5)
ZONE CHANGE NUMBER 2011-00005-(5)
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit in conjunction with a zone change which seeks to authorize the construction and the operation of a solar photovoltaic electricity generation facility located at the intersection of 105th Street West and West Avenue B within the Antelope Valley West Zoned District. At the completion of the hearing, you indicated an intent to deny the zone change and permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

MARK J. SALADINO
County Counsel

By

ELAINE M. LEMKE
Principal Deputy County Counsel

APPROVED AND RELEASED:

THOMAS J. LAUGHNAN
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EML:vn
Enclosure

c: Sachi A. Hamai, Interim Chief Executive Officer
Patrick Ogawa, Acting Executive Officer, Board of Supervisors

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NUMBER R2011-00833-(5)
CONDITIONAL USE PERMIT NUMBER 2011-00079-(5)
ZONE CHANGE NUMBER 2011-00005-(5)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on August 26, 2014, in the matter of Project No. R2011-00833-(5) ("Project"), consisting of Conditional Use Permit No. 2011-00079-(5) ("CUP"). The Project was heard concurrently with Zone Change No. 2011-00005-(5) ("Zone Change"). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Project and Zone Change on May 7, 2014 and June 11, 2014.
2. The Project, also known as Project 1 North Lancaster Ranch, was one of six solar energy projects cumulatively identified as Silverado Power West, Los Angeles County Projects 1 - 6 ("Projects 1 - 6"). After closing the Commission hearing, the Commission certified the Project's environmental impact report ("EIR"), discussed further below, approved the other five solar energy projects (none of which required zone changes), approved a resolution recommending approval of the Zone Change for the Project to the Board and approved the CUP for the Project. Pursuant to section 22.220.B.2 of Title 22 ("Zoning Code") of the County Code, the CUP and EIR related to the Project were deemed called up for review by the Board for concurrent consideration with the Zone Change.
3. The applicant, North Lancaster Ranch, LLC ("applicant"), requested the CUP to authorize the development of a 20-megawatt solar photovoltaic electricity generation facility and construction of a water tank on a two-parcel project site of 79 gross acres located near the intersection of 105th Street West and West Avenue B in the Antelope Valley West Zoned District in the unincorporated County ("Project Site"). The Project Site is separate and distinct from the sites for the other five solar energy projects, all of which are separate and distinct from each other.
4. The Project Site is currently zoned A-1-2 (Light Agriculture-Two Acres Minimum Required Area). The Zone Change is a related request to re-zone the Project Site from Zone A-1-2, which does not allow operation and maintenance of a utility scale solar facility to Zone A-2-2 (Heavy Agriculture-Two Acres Minimum Required Area), which does allow operation of a utility scale solar facility with a conditional use permit.
5. The Project Site is vacant and rectangular in shape with flat, previously tilled topography, with little or no farming having occurred in recent years. The Project Site is located in an agricultural opportunity area as identified in the Los Angeles Countywide General Plan ("General Plan"). There are some existing agricultural uses located in the general vicinity of the Project Site.

6. The Project Site is accessible via West Avenue B and 110th Street. Primary access to the Project Site is via an entrance/exit on West Avenue B and on 110th Street West.
7. The Project site is located within the N-1 (Non-Urban 1) land use category of the Antelope Valley Areawide General Plan Land Use Policy Map. Surrounding lands within a 500-foot radius of the Project Site are also designated as N-1.
8. Surrounding properties from the Project Site are zoned as follows:
 - North: A-1-2;
 - East: A-1-2;
 - South: A-1-2; and
 - West: A-2-2.
9. The surrounding land uses from the Project Site consist of the following:
 - North: Residential and commercial facility uses;
 - East: Vacant land;
 - South: Vacant land; and
 - West: Vacant land.
10. Typical uses allowed in the existing A-1 Zone include crops, residential-type uses, limited raising of livestock, greenhouses and the raising of smaller farm animals. Uses allowed in the A-1 Zone with a conditional use permit include churches, various types of schools, clubs, communication equipment buildings, riding academies, and non-commercial wind energy systems. Utility scale solar facilities are not allowed in the A-1 Zone.
11. With the exception of setbacks and easements in some locations, the Project would utilize all of the 79-gross-acre Project Site for construction of solar arrays and appurtenant facilities, including two substations and a 10,000-gallon fire flow water supply tank. The Project Site would include a chainlink perimeter fence eight feet in height and include three-strand barbed wire at the top.
12. The Department of Regional Planning ("Regional Planning"), on behalf of the County as lead agency pursuant to the California Environmental Quality Act (California Public Resources Code section 21000, et seq.) ("CEQA"), conducted an Initial Study for the proposed Projects 1 - 6 and determined that an EIR was necessary. A Draft EIR ("DEIR") was published for public comment on January 6, 2014, and the comment period closed on February 19, 2014. After the close of the public comment period, a Final EIR ("FEIR") was prepared in accordance with CEQA and the CEQA Guidelines. The Commission certified the FEIR at the close of its hearing on the Project. In light of this Board's decision, as set forth below, to deny the Project, the Board takes no further action on the FEIR.

13. Prior to the Board and Commission hearings, a County hearing examiner conducted a duly-noticed public hearing on February 1, 2014, to take testimony from the public on the DEIR for the Project and the other five solar energy projects under consideration.
14. In accordance with standard County Code requirements, the community was appropriately notified of the public hearings for the Project by mail, newspaper, and posting on the Project Site.
15. Letters and other written communication regarding the Project were received by Regional Planning throughout the period that the County considered the Project, both opposing and supporting the Project. The vast majority of the comments opposed the Project. Those in favor of the Project cited its economic benefits and the benefits of the use of solar energy. The concerns and objections raised about the Project included those related to air quality, fugitive dust during construction and operation, view impacts, impacts to plants and animals, the incompatibility of a utility scale solar energy facility with the rural lifestyle in the area, and the negative impacts of the Project to the property values in the area.
16. At the Commission's June 11, 2014 public hearing on the Project, Regional Planning staff provided a presentation of the six solar energy projects under consideration, including the Project. Testifying at the hearing were a representative of the applicant and members of the public. The applicant representative testified that the Project would contribute to renewable energy goals of the State and County, provide construction jobs, and have minimal impact on the community. Project opponents focused on the potential negative health impacts of the Project from fugitive dust, the visual and aesthetically unpleasing aspects of the Project, and the Project's potential to create safety and noise concerns. At the close of its public hearing, the Commission approved the CUP and recommended that the Board approve and adopt the Zone Change.
17. The Board held its duly-noticed public hearing on the Project on August 26, 2014. At the Board's hearing, Regional Planning staff made a presentation regarding the Project and discussed the Commission's decision. Five members of the public testified regarding the Project, including the applicant, who testified in favor of the Project. One individual who testified neither opposed nor supported the Project, and the remaining three individuals testified in opposition to the Project.
18. At the Board hearing, the Project opponents contended that the facility was not agricultural in nature, that it discouraged the rural lifestyle in the area, that the Project's perimeter fencing would negatively impact wildlife in the area, and that the Project was aesthetically incompatible with the surrounding area. The opponents raised concerns about dust, asserting that existing solar facilities in the area had dust-control problems. The opponents further noted that residents located across from the facility would not expect a solar facility to be located near them given the existing zoning and objected to the loss of land for agricultural

arguing that any uses on the Project Site should be limited to those uses allowed by the existing zoning. One opponent also expressed concern about setting a precedent to allow a zone change for solar facilities which could result in an overabundance of such facilities in the Antelope Valley.

19. At the Board's public hearing, the Board was informed that the other five solar energy projects considered with the Project by the Commission, had been approved and development of those five solar facilities can proceed.
20. The Board finds that the testimony and written comments in opposition to the Project reflect credible concerns and problems with the Project's proposed use at the Project Site.
21. The Board finds that the General Plan includes several policies and goals that the Board finds are particularly relevant to the proposed Project. These General Plan policies include: (a) protection of prime agricultural lands; (b) ensuring that development in non-urban areas is compatible with rural lifestyles and does not subject people and property to serious hazards; (c) encouragement of continuation of agriculture in the Antelope Valley including expansion of agricultural activities into under-utilized lands; (d) preservation of lands in the Antelope Valley where agriculture is viable or which have a high potential due to presence of prime soils; (e) maintenance of the open and rural character of non-urban areas in the Antelope Valley; (f) discouragement of location of uses which would be incompatible with further agricultural production; and (g) protection of air quality through improved land use management.
22. The Board finds that a zone change to allow installation and maintenance of the proposed solar facility would: (a) be incompatible with agricultural production on the Project Site, which is located in an agricultural opportunity area; (b) be incompatible with the rural lifestyle in the area; (c) negatively impact the rural character of the surrounding area; and (d) potentially lead to significant dust impacts and impact air quality, particularly with respect to the developed property north of the Project Site. Based on the foregoing, the Board finds that the Project would be inconsistent with all of the policies identified in Finding No. 21 above and, thus, would not be consistent with the General Plan, a finding necessary to allow a zone change.
23. The Board finds that to meet the burden of proof for a zone change under section 22.16.110 of the Zoning Code, an applicant must show that: (a) modified conditions in the area warrant a revision in the zoning as it pertains to the area under consideration; (b) that there is a need for the proposed zone change; (c) that the property is in a proper location for the proposed new zone classification; and (d) the change would be in the interest of the public health, safety, and general welfare, and in conformity with good zoning practice.

24. The Board finds that changing the zone of the Project Site from A-1-2 to A-2-2 to allow the proposed incompatible solar facility, does not reflect good zoning practice and is not necessary for the public convenience or general welfare. Utility-scale solar facilities require large areas of development which impact much larger areas of surrounding property. Under good zoning practice, changing zoning to allow these uses is more appropriately considered in an area-wide planning process rather than on an individual project by project basis.
25. The Board finds that the Project Site is not in a proper location for the project-specific Zone Change (as opposed to zoning changes as part of a planning process for an entire area) in part because the change could lead to a precedent for zone changes for solar projects resulting in modifying the general area's conditions, substantially changing the area's rural lifestyle, and contributing to a decline in agricultural uses and production.
26. The Board finds that, with the exception of property located to the west of the Project Site, property located immediately around the Project Site is zoned A-1-2, the same as the Project Site. Accordingly, the Board finds that changing the zone of the Project Site to A-2-2 would make the site inconsistent with the zoning of the neighboring properties. The Board further finds that there is insufficient evidence of any modified conditions in the area that would warrant the Zone Change or show that there is a need for the Zone Change to allow the Project. The Board makes this finding in light of, among other things: (a) the approval of the applicant's five other utility scale solar projects in the Antelope Valley that are located in a zone allowing such facilities; and (b) the abundant supply of property in the Antelope Valley already zoned A-2-2 which would allow solar projects with a conditional use permit. As such, the Board finds that the proposed Zone Change is not in the interest of the public health, safety, and general welfare. Accordingly, the Board finds that denial of the Zone Change for the Project is appropriate.
27. The Board finds that approval of the proposed CUP is dependent upon the Board's approval of the Zone Change. Because, as discussed above, the Board will be denying the Zone Change for the Project, the CUP cannot be approved by the Board.
28. The Board finds that, under section 22.56.020 of the Zoning Code, the burden of proof for a conditional use permit requires, among other things, that: (a) the Project be consistent with the General Plan; (b) the proposed use will not adversely affect the peace, comfort, or welfare of persons residing or working in the surrounding area; and (c) the proposed use will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the involved site. As set forth above in Finding No. 22, the Board finds that the Project is not consistent with the General Plan. In addition, based on communications and testimony submitted by individuals who live in the general vicinity of the Project Site, the Board finds that the proposed use would adversely affect the peace, comfort, or welfare of others residing or working in the area and

would be materially detrimental to use, enjoyment, or valuation of other properties in the surrounding area. Accordingly, the Board finds that denial of the CUP for the Project is appropriate.

29. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is at the Los Angeles County Department of Regional Planning, currently located at the 13th floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Special Projects Section, Department of Regional Planning.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDE THAT:

1. The proposed use is not consistent with the adopted General Plan for the area;
2. The Board finds that installation and maintenance of the proposed Project would be incompatible with the surrounding area, that there is no need for the proposed Zone Change, that the Zone Change would not be in the interest of public health, safety and general welfare, and that the Zone Change is not necessary for the public convenience or general welfare and would not conform to good zoning practice;
3. The information submitted by the applicant and presented at the public hearing does not substantiate the findings required to approve a Zone Change as set forth in section 22.16.110 of the Zoning Code;
4. The information submitted to the Board supports a conclusion that the proposed use would adversely affect the peace, comfort, or welfare of others residing or working in the area, or that it would be materially detrimental to the use, enjoyment, or valuation of other properties in the surrounding area; and
5. The information submitted by the applicant and presented to the Board at the public hearing does not substantiate the required findings for a conditional use permit as set forth in section 22.56.090 of the Zoning Code.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Denies Project No. R2011-00833-(5).